

SEP 14 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GLENN DOUGLAS JACKSON, JR.,

Defendant - Appellant.

No. 05-30389

D.C. No. CR-04-00161-WFN

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GLENN DOUGLAS JACKSON, JR.,

Defendant - Appellant.

No. 05-30423

D.C. No. CR-04-00255-WFN

Appeal from the United States District Court
for the Eastern District of Washington
Wm. Fremming Nielsen, Senior Judge, Presiding

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Submitted September 11, 2006**

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Glenn Douglas Jackson, Jr., appeals from his 120-month and 60-month sentences imposed following his guilty pleas to possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Jackson contends that the statutory sentencing scheme under § 841 violates his constitutional rights because of the arbitrary and capricious sentencing disparity between powder cocaine and crack cocaine. As Jackson notes in his opening brief, these issues have been foreclosed. *See United States v. Harding*, 971 F.3d 410, 412-14 (9th Cir. 1992); *United States v. Van Winrow*, 951 F.2d 1069, 1071 (9th Cir. 1991) (per curiam); *United States v. Malone*, 886 F.2d 1162, 1166 (9th Cir. 1989). Accordingly, because a three-judge panel lacks authority to overrule precedential law, *see United States v. Lucas*, 963 F.2d 243, 247 (9th Cir. 1992), we affirm.

AFFIRMED.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).